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July 16, 2024

**Via ECF**

The Honorable Lorna G. Schofield  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, New York 10007

***Re: New York City Transit Authority v. Westfield Fulton Center LLC, Civil  
Case No. 24-cv-1123 (LGS) – Joint Status Letter***

Dear Judge Schofield:

Pursuant to the Court's May 3, 2024 Civil Case Management Plan and Scheduling Order (ECF No. 57), and Section III.D.3 of Your Honor's Individual Rules, New York City Transit Authority ("NYCTA") and Westfield Fulton Center LLC ("Westfield") submit this joint status letter regarding the procedural history of the case and the status of discovery.

**I. Procedural History of the Case**

NYCTA filed its complaint on February 15, 2024 (ECF No. 1).

On February 27, NYCTA moved for a preliminary injunction (ECF Nos. 10 and 14). The motion for a preliminary injunction is fully briefed (ECF Nos. 13, 35, and 44).

On March 8, Westfield filed its answer and counterclaims (ECF No. 18). On May 10, NYCTA moved to dismiss Westfield's counterclaims (ECF No. 59). The motion to dismiss is fully briefed (ECF Nos. 60, 66, and 73).

On June 11, the parties submitted a joint letter to the Court consenting to mediation before a magistrate judge and requesting that the Court "adjourn the [preliminary injunction] [h]earing," scheduled for June 24, "and suspend or stay any discovery or [h]earing-related deadlines so the parties can meaningfully engage in mediation" (ECF No. 75). The Court granted the parties' joint application (ECF Nos. 76 and 77).

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## **II. Status of Discovery**

On May 17, Westfield served third-party subpoenas on CBRE Group Inc., Greystone & Co., Inc. (“Greystone”), Jones Lang LaSalle, and Venture NY Property Management LLC (“VNYPM”). On June 11, Greystone and VNYPM produced documents responsive to Westfield’s subpoena.

On June 3, the parties exchanged their first requests for document production.

On June 7, NYCTA served third-party subpoenas on URW America Inc., Westfield America, Inc., Westfield America LP, and Westfield LLC.

In accordance with the Court’s ruling (ECF No. 76), the parties have stayed all discovery in this action during the pendency of the mediation proceedings.

## **III. Status of Mediation**

On July 11, the parties engaged in mediation before Magistrate Judge Robert W. Lehrburger. At the conclusion of the session with Judge Lehrburger, and at the recommendation of Judge Lehrburger, the parties agreed to reconvene for an additional mediation session, which has yet to be scheduled.

As indicated in the parties’ June 11 and July 2 joint letters (ECF Nos. 75 and 80), in the event the parties are unable to resolve this matter through mediation, they will promptly reach out to the Court to schedule a hearing on NYCTA’s motion for a preliminary injunction and to reinstate discovery deadlines.

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cc: All counsel of record (via ECF)